

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 14-20232

v.

HONORABLE GERALD E. ROSEN

MOHAMMAD HASSAN HAMDAN,

Defendant.

GOVERNMENT'S SENTENCING MEMORANDUM

Mohammad Hassan Hamdan (hereinafter "Hamdan"), claiming to be a former member of Hezbollah as a youth living in Lebanon, said he wanted to return to Lebanon to fight with Hezbollah in Syria because he was upset that he had not been successful while living in the United States and he believed had a religious obligation to fight on behalf of Hezbollah. On March 16, 2014, Hamdan was stopped by the Federal Bureau of Investigation (FBI) prior to boarding his overseas flight. Agents spoke with Hamdan after giving him *Miranda* warnings. Hamdan acknowledged that he knew the United States considered Hezbollah a terrorist organization. But when asked about his intended involvement or past involvement with Hezbollah, Hamdan denied any plans to join Hezbollah or to fight in Syria.

Further he denied ever telling anyone that he planned to join Hezbollah or to fight in Syria, instead saying that the purpose of his trip to Lebanon was to have dental work done.

On April 15, 2014, Hamdan was indicted for attempting to provide material support to Hezbollah, a foreign terrorist organization. After agreeing to be deported after his conviction, on August 15, 2016, the United States allowed Hamdan to plead guilty to a reduced charge of making false statements to federal agents in relation to a terrorist investigation.

BACKGROUND INFORMATION

HEZBOLLAH AND HASSAN NASRALLAH

Let the entire world hear me. Our hostility to the Great Satan [America] is absolute ... I conclude my speech with the slogan that will continue to reverberate on all occasions so that nobody will think that we have weakened. Regardless of how the world has changed after 11 September, Death to America will remain our reverberating and powerful slogan: Death to America – Hassan Nasrallah

HEZBOLLAH IS A FOREIGN TERRORIST ORGANIZATION

Hezbollah has been designated as a foreign terrorist organization by the United States government. A “Foreign Terrorist Organization” (FTO) is designated by the Secretary of State in accordance with section 219 of the Immigration and Nationality Act (INA). Entities are designated as FTOs if the Secretary finds:

A) the organization is a foreign organization;

- B) the organization engages in terrorist activity, as defined in section 212 (a)(3)(B) of the INA (8 U.S.C. § 1182(a)(3)(B)), or terrorism, as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. § 2656f(d)(2)), or retains the capability and intent to engage in terrorist activity or terrorism; and
- C) the organization's terrorist activity or terrorism threatens the security of U.S. nationals or the national security (national defense, foreign relations, or the economic interests) of the United States.

Effective October 8, 1997, then Secretary of State Madeleine Albright designated as a Foreign Terrorist Organization - Hizballah, a.k.a. "Party of God," a.k.a. "Islamic Jihad," a.k.a. "Islamic Jihad Organization," a.k.a. "Revolutionary Justice Organization," a.k.a. "Organization of the Oppressed on Earth," a.k.a. "Islamic Jihad for the Liberation of Palestine," a.k.a. Organization of Right Against Wrong," a.k.a. "Ansar Allah," a.k.a. "Followers of the Prophet Muhammad." *Designation of Foreign Terrorist Organizations*, 62 Fed. Reg. 52,650, 52,650-1 (1997).

THE RISE OF HEZBOLLAH AND HASSAN NASRALLAH

When civil war broke out in Beirut, Lebanon in 1975, a 15-year-old Hassan Nasrallah and his family moved south to Bassouriyeh, Lebanon. There he met the religious leader Moussa Al Sadr and joined the Amal movement, a Shiite militia in

south Lebanon. At sixteen, Nasrallah traveled to Najaf, Iraq to study Islam. He became the protégé of Sheikh Abbas Musawi, a fellow Lebanese who would eventually become the first leader of Hezbollah. In 1978, along with hundreds of other radical Lebanese clerics, Nasrallah was expelled from Iraq. He returned to Lebanon to study and teach at a school established by Musawi, and became deeply involved with Amal.¹ In 1982, Iran sent Islamic Revolutionary Guard Corps (IRGC) to train Lebanese groups to attack Israel and to eventually create an Islamic state in Lebanon. Musawi and Nasrallah left Amal to form a new group which would become Hezbollah. Nasrallah maintained close ties with Iran and moved there in 1987 to continue his Islamic studies. After returning two years later, when hostilities intensified between rival factions in Lebanon, Nasrallah quickly rose through the ranks of Hezbollah, becoming leader of the organization after the death of Musawi in February 1992.

Hezbollah supports the model of the Iranian Islamic Republic and promotes the realization of this form of government worldwide (i.e. governed by Sharia law).

¹ Amal became one of the most important Shi'a Muslim militias during the Lebanese Civil War. It grew strong with the support of, and through its ties with, Syria and the 300,000 Shi'a internal refugees from southern Lebanon. Amal's practical objectives were to gain greater respect for Lebanon's Shi'ite population and the allocation of a larger share of governmental resources for the Shi'ite-dominated southern part of the country. At its zenith, the militia had 14,000 troops. Amal fought a long campaign against Palestinian refugees during the Lebanese Civil War (called the War of the Camps). After the War of the Camps, Amal fought a bloody battle against rival Shi'a group Hezbollah for control of Beirut, which provoked Syrian military intervention. Today Amal is, by a small margin, the largest Shia party in the Lebanese parliament, having thirteen representatives to Hezbollah's twelve.

Hezbollah's goals include the eradication of "western imperialism" from the Middle East represented in part by the United States ("the Great Satan") and Israel ("the little Satan"). This worldwide terrorist organization is centered in the south of Lebanon, composed of Shiite Muslims, dominated by and allied with Iran, and headed by its Secretary General Hassan Nasrallah.

As part of his continual recruitment of fighters for Hezbollah, Nasrallah has incited others to fight on Hezbollah's behalf. Incitement was always part and parcel of Hezbollah's strategy. In an interview, Nasrallah described his priorities and methods in the first months of Hezbollah's formation:

The main effort at the time went into mustering and attracting young men and setting up military camps

The second effort was spreading the word among the people, first, in a bid to raise their morale, and second to instill in them a sense of animosity towards the enemy, coupled with a spirit of resistance...this required us to use the language of indoctrination rather than realpolitik. People then were not in need of political analysis, they were in need of being incited and goaded. (Hala Jaber, *Hezbollah Born With a Vengeance*, Columbia University Press, 1997, pp. 49-50)

Nasrallah purveys his message via Hezbollah's own television network, Al-Manar, a primary engine of incitement to violence against Jews, Israelis and Americans. Al Manar's stated mission is to "wage psychological warfare against the Zionist enemy." This is often done by glorifying attacks, particularly suicide

missions against Israel. Nasrallah appeared on Al-Manar encouraging "martyrdom" among children, saying:

How can death become joyous? How can death become happiness? When Al-Hussein asked his nephew Al-Qassem, when he had not yet reached puberty: "How do you like the taste of death, son?" He answered that it was sweeter than honey. How can the foul taste of death become sweeter than honey? Only through conviction, ideology, and faith, through belief, and devotion.

We do not want to...leave our homeland to Israel... Therefore, we are not interested in our own personal security. On the contrary, each of us lives his days and nights hoping more than anything to be killed for the sake of Allah. (MEMRI: Al-Manar TV , Feb. 18-19, 2005)

In May 2006, Nasrallah appeared on Al-Manar TV to explain that "our nation's willingness to sacrifice their blood, souls, children, fathers, and families" is an advantage over the Jews "who guard their lives." (MEMRI: Al-Manar TV on May 23, 2006.)

Prior to September 11, 2001, Hezbollah had killed more Americans than any other terrorist organization. For example, the United States District Court for the District of Columbia has found that Hezbollah, in cooperation with the Islamic Republic of Iran through the Iranian Ministry of Information and Security (MOIS), murdered 241 American servicemen in their sleep during a suicide bombing of the U.S. Marine Corps barracks in Beirut, Lebanon on October 23, 1983. *Peterson v. Islamic Republic of Iran*, 264 F. Supp. 46 (D.D.C. 2003). Sheikh Muhammad Hussein Fadlallah, Hezbollah's chief "spiritual leader," reportedly issued the fatwa

(religious ruling) authorizing the Marine Corps barracks bombing. E.g., Avi Jorisch, *Beacon of Hatred: Inside Hizballah's Al-Manar Television* 8 (2004). Elements of Hezbollah were responsible for the kidnapping, detention, and murder of Americans and other Westerners in Lebanon in the 1980s. Within a month of Nasrallah's taking over as leader, Hezbollah (with the help of Iranian intelligence) bombed the Israeli embassy in Buenos Aires, killing 29 and injuring over 200. The next attack perpetrated by Hezbollah—again with Iranian help—was the bombing of the Jewish community center in Buenos Aires, killing 86 and injuring over 200. In 2000, Hezbollah operatives captured three Israeli soldiers in the Sheba'a Farms area and kidnapped an Israeli non-combatant. Since at least 2004, Hezbollah has provided training to select Iraqi Shia militants, including the construction and use of shaped charge improvised explosive devices (IEDs) that can penetrate heavily-armored vehicles. A senior Hezbollah operative, Ali Mussa Daqduq, was captured in Iraq in 2007 while facilitating Hezbollah training of Iraqi Shia militants. In July 2006, Hezbollah attacked an Israeli Army patrol, kidnapping two soldiers and killing three, starting a conflict with Israel that lasted into August. Since the February 2008 killing in Damascus of Imad Mughniyah, the Hezbollah terrorist and military chief suspected of involvement in many attacks, senior Hezbollah officials have repeatedly made public statements blaming Israel for the killing and vowing retaliation. In a two-week period in May 2008, Hezbollah's armed takeover of West

Beirut resulted in more than 60 deaths. In November 2009, the Israeli navy seized a ship carrying an estimated 400-500 tons of weapons originating in Iran and bound for Hezbollah, via Syria.

HEZBOLLAH'S ATTITUDES REGARDING JEWS AND THE U.S.A.

From the inception of Hezbollah to the present, the elimination of the state of Israel has been a primary goal for Hezbollah. Hezbollah not only opposes the government and policies of the State of Israel, but also each and every Jewish civilian who lives in Israel. Its 1985 manifesto reportedly states "our struggle will end only when this entity [Israel] is obliterated. We recognize no treaty with it, no ceasefire, and no peace agreements." Nasrallah has stated, "Israel is an illegal usurper entity, which is based on falsehood, massacres, and illusions," and considers that the elimination of Israel will bring peace in the Middle East: "There is no solution to the conflict in this region except with the disappearance of Israel. The widening arena of Hezbollah's attacks stemmed from Nasrallah's perception that Jews anywhere are legitimate targets. In fact, Nasrallah has said:

If they (Jews) all gather in Israel, it will save us the trouble of going after them worldwide. (Daily Star, Oct. 23, 2002)

Shiite scholar Amal Saad-Ghorayeb analyzed the anti-Jewish roots of Hezbollah ideology in her book *Hezbollah: Politics & Religion*. In it, she quotes Hassan Nasrallah describing his antipathy toward Jews:

If we searched the entire world for a person more cowardly, despicable, weak and feeble in psyche, mind, ideology and religion, we would not find anyone like the Jew. Notice, I do not say the Israeli. (New Yorker, Oct. 14, 2002)

Nasrallah also incorporates anti-Semitic rhetoric in speeches. For example, he has characterized Jews as the "grandsons of apes and pigs" and "Allah's most cowardly and greedy creatures." (MEMRI: Al- Manar, Feb. 3, 2006).

Hezbollah likewise hates the United States. Hezbollah's manifesto claims that "the whole world knows that whoever wishes to oppose the US, that arrogant superpower, cannot indulge in marginal acts which may make deviate from its major objective. We combat abomination and we shall tear out its very roots, its primary roots, which are the US." Hezbollah supporters chant "Death to America" in demonstrations every year. "Hezbollah Leader Hasan Nasrallah: *'The American Administration Is Our Enemy ... Death to America,'*" MEMRI TV Monitor Project, no. 867 (22 February 2005).

Nasrallah boasts about Hezbollah's designation as a terrorist group by America:

It is our pride that the Great Satan (U.S.) and the head of despotism, corruption and arrogance in modern times considers us as an enemy that should be listed in the terrorism list...I say to every member of Hezbollah (should) be happy and proud that your party has been placed on the list of terrorist organizations as the U.S. view it. (United Press International, Nov. 4, 2001)

HEZBOLLAH AND THE SYRIAN WAR

The Syrian Civil War, also known as the Syrian Uprising, is an ongoing armed conflict in Syria between forces loyal to the Ba'ath government and its president Bashar Al-Assad, and those seeking to oust it. The killing started in April 2011, when peaceful protests inspired by earlier revolutions in Egypt and Tunisia rose up to challenge the dictatorship of Bashar al-Assad's running of the country. In dealing with the protesters, Syrian military troops opened fire on protesters. Eventually, civilians started shooting back and it escalated from there until it was a civil war.

Hezbollah Secretary General Hassan Nasrallah publically indicated in May 2013 that Hezbollah was supporting Bashar al-Assad's regime by sending fighters to Syria. Since then Hezbollah has actively supported the al-Assad's regime. The al-Assad regime, shortly after gaining support of Hezbollah, began using chemical weapons.

In a widely reported finding issued in December 2013, the United Nations determined that chemical weapons were used also against civilians, including children, on a relatively large scale in the Ghouta area of Damascus on August 21, 2013, as well as the presence of chemical weapons use in Khan Al Asal (near Aleppo, Syria) on March 19, 2013, in Bahhariyeh on August 22, 2013, in Jobar and Saraqued on August 24, 2103 and in Ashrafiah Sahnaya on August 25, 2013.² In

² United Nations Mission to Investigate Alleged Uses of Chemical Weapons in the Syrian Arab.

August 2016, a confidential United Nations report explicitly blamed the Syrian military of Bashar al-Assad for dropping chemical weapons on the towns of Talmenes in April 2014 and Sarmin in March 2015.³

MOHAMMAD HASSAN HAMDAN

Mohammad Hassan Hamdan (hereinafter “Hamdan”), claiming to be a former member of Hezbollah as a youth living in Lebanon, said he wanted to return to Lebanon to fight with Hezbollah in Syria because he was upset that he had not been successful while living in the United States and he believed had a religious obligation to fight on behalf of Hezbollah. Hamdan thereafter sold his house, gave his car to his sister, gave his other vehicle to another to be sold, packed up all of his belongings, got a temporary Lebanese travel document, and bought a ticket to Lebanon so he could go to Syria and fight with Hezbollah. He was stopped by the FBI before he could board his flight.

In an attempt to defend his actions of trying to return to Lebanon to fight with a terrorist organization in Syria, his attorney and family have asserted in the past that Hamdan is “adamant that he didn’t do anything wrong” and instead suggested that he had only planned to temporarily visit Lebanon in order to get dental work done.⁴

United Nations. December 13, 2013.

³ Syria Used Chlorine in Bombs Against Civilians, Report Says, *New York Times* August 25, 2016.

⁴ The FBI did not find any records that Hamdan made a single dental appointment to get his teeth fixed while abroad. As such, this claim begs the question, why would anyone travel thousands of miles to a war zone (Syria) to have their teeth fixed?

His actions, guilty plea, and recorded conversations belie the protestations of his innocence.

ACTIONS OF MOHAMMAD HASSAN HAMDAN

“Action expresses priorities.” — Mahatma Gandhi.

In early September 2013, Mohammad Hassan Hamdan, a Lebanese citizen living in Dearborn Heights, Michigan had contact with a confidential source of the Federal Bureau of Investigation (FBI). During this contact, Hamdan told the confidential source (hereinafter “Source”) that Hamdan wanted to travel to Syria by Christmas 2013 in order to fight alongside Hezbollah. Hamdan indicated that his travel might be delayed because his sister was holding his Lebanese passport.

On January 28, 2014, the FBI conducted a consensually recorded conversation between Hamdan and Source, wherein Hamdan discussed his intent to go to Lebanon to assist Hezbollah in its war efforts in Syria. Hamdan told Source that Hamdan previously had been active within the Hezbollah ranks during the war with Israel in 2006, one year prior to his arrival in the U.S. He also stated that he had been involved with Hezbollah’s program of distribution and public assistance as a youth before coming to the U.S. Hamdan admitted to Source that he had received military training from Hezbollah. Hamdan added that his Hezbollah military training began at a very early age and included training on operating various weapons systems. During the conversation Hamdan stated to Source that his purpose in traveling to

Lebanon and joining Hezbollah was to support and fight with Hezbollah in Syria in the present conflict.

During the conversations, Hamdan told Source that he understood that he may have a difficult time joining Hezbollah, but that he has an uncle and two cousins that are high ranking officials in Hezbollah. He likewise mentioned that he was not necessarily concerned with money because “If you are with the party (“Party of God’- Hezbollah”) you would get about money .. about \$500 per month.” During this part of the conversation Source sought to have Hamdan spell out what he meant. Hamdan stated “Go there to fight” “You will get paid about \$500-1000 while you are fighting.” Source, in an effort to have Hamdan clarify his answer, asked if he was going to be paid by the “Party (Hezbollah),” Hamdan answered “Yes.”

During this conversation Hamdan also gave Source some insight as to his motivation as to why he wanted to go to Syria to fight with Hezbollah. Hamdan stated that he was not comfortable in the United States, he was unable to obtain a college degree, “work is not good, I have nothing, I have not been able to help my parents.” Hamdan also gave more philosophical reasons for why he wanted to be fighting with Hezbollah:

“You have to think about it. You have to think about it. Are you buying your life or the afterlife? Life is not eternal. Whatever you do in your life you will end up in the tomb eventually. You will choose wisely once you work toward your eternal life.”

He likewise explained why he has to act rather than simply watch:

“Look, watching is not like being down there. The ones down there are suffering from these people. There is humiliation. By God, it’s humiliating. The things they are doing to us is really humiliating. We kept quiet, this was our mistake. We were silent while you went on and on until it reached a tipping point. You can no longer contain them. This is the problem. Why is it that those people had become influential in Tripoli? It is because we have been quiet about it.”

Hamdan indicated that he did not anticipate leaving the United States until sometime in May 2014, because he was trying to get an American passport, and that he had to replace his missing Lebanese passport. Hamdan also made it clear that his intention to become a US citizen was really a means to an end, because of Hamdan’s belief that “if I have a citizenship they cannot question me.”⁵

On March 15, 2014, the FBI received information that Hamdan had booked a flight to Lebanon to leave the evening of March 16, 2014. According to information provided to the FBI, Hamdan was scheduled to depart Detroit, Michigan the evening of March 16, 2014, with a layover in Paris, France before his arrival in Beirut, on March 17, 2014. Hamdan’s flight itinerary indicated he was scheduled to return on May 3, 2014 from Beirut, Lebanon to Detroit, Michigan via Paris, France.

While a round trip ticket would suggest that Hamdan intended to return to the United States, such is not the case. Hamdan had to purchase a round trip ticket if he wanted to go to Syria so that he could join up with Hezbollah. This is because on

⁵ At the detention hearing, Hamdan argued that his attempt to become a U.S. citizen established that he did not intend to join Hezbollah. This was rejected by the Court.

March 11, 2014, he was placed on 9 months of non-reporting probation for illegally possessing marijuana. He was only granted permission to travel to Lebanon by the State Court based upon Hamdan's promise to return to Michigan in May 2014. Hamdan's probation officer advised that Hamdan could not travel internationally with only a one-way ticket. The probation officer told FBI agents that had Hamdan traveled to Lebanon on a one-way ticket, and the Court had become aware of that fact, an arrest warrant would have been issued for Hamdan.

Furthermore, Hamdan's statements and actions show that he did not intend to return to the U.S. For example, on March 15, 2014, Hamdan had given ownership of his vehicle to his sister. Additionally, Hamdan asked Source to sell his work van for him and to give the money to his family. Moreover, Hamdan had recently assigned a \$27,000 land contract for the condominium which he owned (6831 Country Lane Dearborn Heights, Michigan), for which he was being paid for by monthly installments. The closing took place on February 28, 2014. Hamdan thereafter received a down payment and his first payment check on March 4, 2014. As such, Hamdan temporarily moved into his mother's house.⁶

⁶ On March 16, 2014, FBI agents went to his mother's house, and were given consent to enter. The room in which Hamdan had been living had been cleared out, with only a mattress leaning against the wall; the only other items in the room belonged to Hamdan's mother. In addition, three suitcases which Hamdan had packed were downstairs. One of the suitcases was empty; the other two contained clothing which Hamdan had packed but had not taken with him. It thus appeared that Hamdan had taken all of his important possessions with him and did not intend to return. Similarly, on March 18, 2014, as part of a recorded jail call (Wayne County Jail), Hamdan's mother told HAMDAN that the police had come to the house and looked in Hamdan's

On the same day that the FBI learned of Hamdan's intended travel, Hamdan called Source and stated that he wanted to meet to say goodbye. The following day, on March 16, 2014, Hamdan met with Source. During the conversation, Source tried to discourage Hamdan from going to fight in Syria telling Hamdan that the United States government considers Hezbollah a terrorist organization, it was likely that Hamdan would become known by fighting in Syria, and that as a result it would not be possible for him to return to the United States. Hamdan told Source that he did not think he would get in trouble if he came back to the United States but that he did not intend to come back in any event if he was able made it to Syria to fight with Hezbollah.⁷

Hamdan not only had the primary objective of joining Hezbollah to fight in Syria, but that he also had a backup plan ("plan B") that if he is unable to join Hezbollah in that he will simply come back to the United States. As Hamdan stated "I will get a week at first. I got to Lebanon and then go back there [Syria]." "I won't come back if I make there [to Syria]. If I make it there, I won't." In regard to this

room. She went on to say: "they did not find any weapon by us. They did not see anything by us in the house." During a call later that same day, Hamdan tells his mother: "That thing in the drawer, give it to Imad so he can take it away." His mother assures him by saying: "It is gone, gone.....All your stuff."

⁷ *Source*: "And be careful. You be careful when you come back because you know here, my brother, it is regarded as terrorists in the US. Do you know how? I mean, Hezbollah are known to be terrorists."

Hamdan: "I won't come back if I make it there. If I make it there [to Syria], I won't"

conversation, Source sought clarification as to what Hamdan meant by “there” and asked Hamdan if he meant “To Syria?” to which Hamdan answered “Yes.” Hamdan remained adamant that he was going to fight with Hezbollah, despite the Source’s attempts to dissuade him. He summed up his unceasing desire to go when he stated “Look, it is like you are talking to a dead person, that’s it. You see how? I made up my mind.”

On March 16, 2014, Hamdan was stopped at the Detroit Metropolitan Airport after clearing the Transportation Security Administration (TSA) security checkpoint but prior to boarding the flight. Agents spoke with Hamdan after giving him *Miranda* warnings. During the ensuing conversation, the agents queried Hamdan regarding Hezbollah. The agents asked Hamdan if he knew the United States considered Hezbollah a terrorist organization. Hamdan acknowledged that he knew the United States considered Hezbollah a terrorist organization and that he believed that they (Hezbollah) were “number one on the list.” When asked about his intended involvement or past involvement with Hezbollah, Hamdan denied any plans to join Hezbollah or to fight in Syria. Further he denied ever telling anyone that he planned to join Hezbollah or to fight in Syria, instead saying that the purpose of his trip to Lebanon was to have dental work done. At the time of his arrest, Hamdan had two telephones in his possession. One, he referred to as his sister’s phone (Apple iPhone[White]) and the other phone as his (Apple iPhone [Yellow]). When it was

brought to Hamdan's attention that the screen on the White iPhone was damaged, he asserted that he knew of the damage and that he was only bringing it to Lebanon to have the screen fixed for his sister.

After his arrest, Hamdan appeared in Court on March 17, 2014. The following day, March 18, 2014, Hamdan made a telephone call from the Wayne County Jail, Detroit, Michigan to one of his friends (Hussein Awda). During that telephone call he gave his friend three possible passwords for two of Hamdan's e-mail accounts.⁸ Hamdan asked his friend to delete both of the accounts, that his friend should know which dates to delete and that it is very important for his friend to take care of it right away.

Awda gave two sworn statements. During his first statement Awda falsely swore that, in a phone call from jail, Hamdan only asked Awda to stay with Hamdan's family to make them feel better. After his first statement, the FBI seized Awda's computer. In his second statement Awda changed his answer regarding whether Hamdan had asked Awda to do something for him. This time Awda admitted that Hamdan called from jail and asked him to deactivate Hamdan's Facebook account. Awda admitted that used his own computer and logged onto Hamdan's Facebook account. However, during his statement, Awda became very

⁸ These two accounts ("hamada358@hotmail.com" and hamada358@live.com) were not disclosed by Hamdan during his conversation with the FBI agents after his arrest at the airport on May 16, 2014.

vague when he was asked to provide the specifics as to what he deleted from Hamdan's Facebook account. Awda claimed he only deleted a single email message that Hamdan had sent to "Ali." Awda claimed he could not recall the specifics of the message, or precisely why he chose to delete that particular email message other than Awda believed the government would make a "big deal out of" what Hamdan had written in the email to "Ali."

Search warrants were obtained for the telephones Hamdan had in his possession at the time of his arrest at the airport. Some of the items found on his cell phones included items and images establishing his ownership of the phone (i.e. "Selfie" pictures of Hamdan, photographs of his pro-Shia related tattoo's etc.). He also had items and images that established his following and support of Hezbollah and Basher Al-Assad (i.e. images of: Hezbollah Secretary General Hassan Nasrallah; Hezbollah flags; numerous firearms; miscellaneous photos of individuals in camouflaged clothing with and without firearms; Basher Al-Assad etc), his Facebook support for Hezbollah and a photograph of Hamdan wearing an assassin's balaclava.⁹ This items included videos of speeches by Hassan Nasrallah

⁹ Persons who are heavily involved with Hezbollah and who follow and support Hezbollah, commonly possess and keep video and audio tapes, DVDs and CDs concerning Hezbollah, including celebrations, military operations, songs, speeches and propaganda; computerized images or web sites dealing with Hezbollah, martyrdom, suicide operations, bombings or other terrorist attacks, and anti-United States or anti-Israel propaganda; and/ or photographs, flags, posters, or other depictions of Hezbollah leaders or symbols. For example, on September 18, 2003, Hassan Makki was convicted of Providing Material Support to Hezbollah in violation of 18 U.S.C. §2339B before the Honorable George Caram Steeh, Case No. 03-80079. On March 1,

encouraging martyrdom and fighting for Hezbollah. He likewise had photographs of Bashar al-Assad. Hamdan additionally had a photograph of the check and cash he received from the sale of his house (less than two weeks before his travel to Lebanon).

It is clear that Hamdan not only planned to fight with Hezbollah in Syria, he let others know that this was what he intended to do. Hamdan, on the other hand, now suggests, through his objections to the Pre-Sentence Report, that he is really not a supporter of a terrorist organization who was stopped before he could act. Rather he asserts that somehow he can explain away his actions, as the perfectly natural consequence of immaturity, getting his teeth fixed, getting over a break up with his girlfriend or some other shifting theory. Or perhaps, he was stopped by the FBI from carrying out his plan of joining, training and fighting with a terrorist organization - Hezbollah.

GOVERNMENT'S POSITION REGARDING SENTENCE

Hamdan was initially indicted for attempting to provide material support to Hezbollah, a foreign terrorist organization, wherein he faced an anticipated sentence of fifteen years in prison. After he agreed to be deported after his conviction, the

2005, Mahmoud Kourani was convicted of Conspiracy to Provide Material Support to Hezbollah in violation of 18 U.S.C. §§2339B and 371 before the Honorable Robert H. Cleland, Case No. 03-81030. Prior to these convictions, the FBI recovered computerized and still photographs depicting Hezbollah figures and/or symbols as well as Hezbollah propaganda tapes praising Hezbollah and martyrdom during the execution of search warrants at both Makki's and Kourani's residences.

United States offered Hamdan the opportunity to plead guilty to making false statements to federal agents in relation to a terrorist investigation wherein he now faces a maximum sentence of 8 years. As part of the plea agreement that parties stipulated that “that the sentence of imprisonment will be no less than 63 months” and that after Hamdan finished serving his sentence he would “thereafter [be] deported and removed to Lebanon ...”

Unfortunately, however the United States cannot currently go forward with the sentencing as Hamdan has failed to comply with all the conditions of his plea agreement. As part of the plea agreement Hamdan agreed to “... execute whatever documents are requested of him by the Department of Homeland Security to effectuate” his Stipulated Order of Removal (see Paragraph 4A – Rule 11 Plea agreement). Several documents relating to Hamdan’s removal from the United States needed to be executed by Hamdan. These documents were sent to Hamdan’s counsel weeks ago. As the executed documents have yet to be received by the United States, and Hamdan has thus failed to fulfill his obligation, this Court should not accept this plea agreement at this time.

However, in the event all of the required documents are signed by Hamdan and presented to the United States prior to December 2, 2016, the United States stands ready to recommend that this Court should:

- 1) Accept the Rule 11 plea agreement;

- 2) Sentence Hamdan to no less than 63 months' imprisonment; and
- 3) issue a judicial order of removal, to be entered at sentencing, as a condition of this plea agreement pursuant to 8 U.S.C. § 1228(c)(5).

Respectfully submitted,

Barbara L. McQuade
United States Attorney

s/Ronald W. Waterstreet
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Dated: November 29, 2016

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2016, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which will send notification of such filing to all ECF filers.

s/Ronald W. Waterstreet

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